

House Bill 1280

By: Representative Maddox of the 172nd

A BILL TO BE ENTITLED
AN ACT

To amended Title 4 of the Official Code of Georgia Annotated, relating to animals, so as to extensively revise provisions relating to dogs and especially provisions relating to dangerous and vicious dogs; to define and redefine terms; to prohibit the training of dogs to attack humans in residential areas unless expressly permitted by the applicable zoning; to provide for court orders for the euthanasia of dogs; to provide public safety and administrative procedures for the identification of dangerous and vicious dogs; to require a certificate of registration for the possession of a dangerous or vicious dog and to require certain safety and indemnity measures as a condition of registration; to require notice by the owner of the escape or movement of a dangerous or vicious dog; to provide safety measures for the movement of such dogs; to define criminal offenses and provide for punishment; to provide for transition with respect to previously classified dogs; to state legislative intent; to provide for other related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 4 of the Official Code of Georgia Annotated, relating to animals, is amended by revising Chapter 8, relating to dogs, as follows:

"CHAPTER 8

ARTICLE 1

4-8-1.

No person shall intentionally abandon a dead dog on any private property belonging to another unless the person so doing shall have first obtained permission from the owner of the property on which the dog is being left and the provisions of Code Section 4-5-3 are complied with in full.

4-8-2.

No person shall abandon a dead dog on any public property or public right of way unless the place in which the dog is being left is a public dump or other facility designed for receiving such and has been designated by the local governmental authorities as a public facility for receiving trash or refuse and the provisions of Code Section 4-5-3 are complied with in full.

4-8-3.

No person shall release a dog on any property, public or private, with the intention of abandoning the dog.

4-8-4.

(a) The owner or, if no owner can be found, the custodian exercising care and control over any dog which ~~goes upon the land of another and~~ while off the owner's property causes injury, death, or damage directly or indirectly to any livestock, ~~or poultry, or pet~~ shall be civilly liable to the owner of the livestock, ~~or poultry, or pet~~ for damages, death, or injury caused by the dog. The liability of the owner or custodian of the dog shall include consequential damages.

(b) The owner or, if no owner can be found, the custodian exercising care and control over any dog shall be liable for any personal injury caused by such dog and for any damage caused by such dog to public or private property.

~~(b)~~(c) This Code section is to be considered cumulative of other remedies provided by law. There is no intent to do away with or limit other causes of action which might inure to the owner of any livestock, ~~or poultry, or pet~~.

4-8-5.

(a) No person shall perform a cruel act on any dog; nor shall any person harm, maim, or kill any dog, or attempt to do so, except that a person may:

(1) Defend his person or property, or the person or property of another, from injury or damage being caused by a dog; or

(2) Kill any dog causing injury or damage to any livestock, ~~or poultry, or pet~~.

(b) The method used for killing the dog shall be designed to be as humane as is possible under the circumstances. A person who humanely kills a dog under the circumstances indicated in subsection (a) of this Code section shall incur no liability for such death.

(c) This Code section shall not be construed to limit in any way the authority or duty of any law enforcement officer, dog or rabies control officer, humane society, or veterinarian.

4-8-6.

No owner or custodian of any dog ~~in heat~~ shall permit the dog to roam or run free beyond the limits of his property.

4-8-6.1.

(a) For the purposes of this Code section, the term 'collar' means any electronic or radio transmitting collar that has the purpose of tracking the location of a dog.

(b) No person shall remove a collar from a dog without permission from the dog's owner with the intention of preventing or hindering the owner from locating such dog, and if such dog is lost or killed as a result of the violator's removal of such collar, the violator shall be required to pay the dog's owner restitution in the amount of the actual value of the dog and any associated veterinary expenses.

(c) This Code section shall not apply to an owner or lessee of real property who removes a collar from a dog caught on his or her owned or leased property while such dog remains on such property if such owner or lessee gives notice of such action within 24 hours to the county or municipal law enforcement agency having territorial jurisdiction.

4-8-6.2.

No person shall in any area zoned for residential use engage in the business of training dogs to attack humans or maintain dogs which are being trained to attack humans unless such use is expressly permitted under the applicable zoning regulations in effect for such residential area.

4-8-7.

Except as provided in Code Sections 16-12-4 and 16-12-37, any person who violates any provision of this article shall be guilty of a misdemeanor.

4-8-8.

The judge of any court of this state, including but not limited to a magistrate court or municipal court, may order the euthanasia of a dog if the court finds after notice and opportunity for hearing that the dog presents a danger to society not suitable for control under Article 2 of this chapter and:

(1) The owner of the dog or another person having custody or control of the dog is before the court on a charge of violation of any county or municipal ordinance or any state criminal law; or

(2) Any local government or any person has filed with the court a civil action requesting the euthanasia of the dog.

4-8-9.

Nothing in this chapter shall be construed to limit in any manner the power of any city or county to prohibit animals from running at large, nor shall anything in this chapter be construed to limit the power of any city or county to further control and regulate dogs.

ARTICLE 2

4-8-20.

This article shall be known and may be cited as the 'Dangerous and Vicious Dog Control Law.'

4-8-21.

(a) As used in this article, the term:

(1) 'Dangerous dog' means any dog that, ~~according to the records of an appropriate authority:~~

~~(A) Inflicts a severe injury on a human being without provocation on public or private property at any time after March 31, 1989; or~~

~~(B) Aggressively bites, attacks, or endangers the safety of humans without provocation after the dog has been classified as a potentially dangerous dog and after the owner has been notified of such classification.~~

(A) While off its owner's property, chases a person or approaches a person in a menacing fashion or apparent attitude of attack;

(B) Attacks, bites, or endangers the safety of a human being or domestic animal without causing serious injury;

(C) While off its owner's property, attacks or kills without justification a domestic animal; or

(D) Has been declared to be a dangerous dog or other similar classification by an animal control authority or court of another jurisdiction.

(2) 'Dog control officer' means an individual selected by a local government pursuant to the provisions of subsection (c) of Code Section 4-8-22 to aid in the administration and enforcement of the provisions of this article.

(3) 'Governing authority' means the governing body or official in which the legislative powers of a local government are vested.

(4) 'Local government' means any county or municipality of this state.

(5) 'Owner' means any natural person or any legal entity, including, but not limited to, a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or having custody or control of a ~~dangerous dog or potentially dangerous~~ dog within this state. In the case of a dog owned by a minor, the term 'owner' includes the parents or person in loco parentis with custody of the minor.

(6) Reserved. ~~'Potentially dangerous dog' means any dog that without provocation bites a human being on public or private property at any time after March 31, 1989.~~

(7) 'Proper enclosure' means an enclosure for keeping a dangerous dog or ~~potentially dangerous~~ vicious dog while on the owner's property securely confined indoors or in a ~~securely enclosed and locked~~ pen, fence, or structure suitable to prevent the entry of young children and designed to prevent the dog from escaping. The enclosure shall not allow the egress of the dog in any manner without human assistance. The following additional conditions shall apply in determining whether containment constitutes proper enclosure:

(A) Any such pen or structure shall have secure sides, and a secure top, and bottom and, if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and be at least six feet in height and be constructed of 11-gauge or heavier wire. Openings in the wire shall not exceed two inches. An entrance and exit gate shall be provided and be constructed of the same material as the sidewalls and shall also have no openings in the wire greater than two inches. The gate shall be equipped with a device capable of being locked and shall be locked at all times when the dog is in the pen or structure. Any such pen or structure shall be located at least ten feet from any property lines and shall comply with all zoning and building regulations of the local government. Any pen or structure must be of sufficient dimensions for the size of the dog. The bottom of the fence shall be constructed or secured installed beneath ground or in concrete in such a manner as to prevent the dog's escape either from over or from under the fence. Any such enclosure shall also provide protection from the elements for the dog;

(B) If the enclosure is a room within a residence, it shall have no direct ingress from or egress to the outdoors unless it leads directly to an enclosed pen and the door shall be locked; and

(C) A proper enclosure shall not include an invisible or electric fence, tethering, a porch or patio, or any part of a house, garage, or other structure in which windows are open or in which door or window screens are the only barriers which prevent the dog from exiting.

(8) ~~'Records of an appropriate authority' means records of any state, county, or municipal law enforcement agency; records of any county or municipal animal control agency;~~

records of any county board of health; records of any federal, state, or local court; or records of a dog control officer provided for in this article.

~~(9)~~(8) 'Severe injury' means ~~any physical injury that results in broken bones or disfiguring lacerations requiring multiple sutures or cosmetic surgery or a physical injury that results in death~~ multiple bites; laceration to or avulsion of the face of a human being; laceration to or avulsion of another area of a person's body requiring sutures or cosmetic surgery; a broken or dislocated bone; muscle, ligament, or tendon tears; permanent nerve damage; partial or total loss of use of a part of the body for a significant period of time; or total disability for a significant amount of time, which may include transmission of an infectious or contagious disease.

(9) 'Vicious dog' means any dog that:

(A) Causes a physical injury that results in death of a human being;

(B) Inflicts a severe injury on a human being;

(C) Attacks more than one human being in one occurrence;

(D) Attacks a human being or domestic animal after the dog has previously bitten, attacked, or endangered the safety of a human being or domestic animal; or

(E) Has been classified as a vicious dog or other similar classification by an animal control authority or court of another jurisdiction.

(b) A dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties shall not be a dangerous dog or ~~potentially dangerous~~ vicious dog within the meaning of this article. A dog shall not be a dangerous dog or a ~~potentially dangerous~~ vicious dog within the meaning of this article if the injury inflicted by the dog was sustained by ~~a person~~ an adult who, at the time, was committing a willful trespass ~~or other tort~~ or a person who was tormenting, abusing, or assaulting the dog or ~~had in the past been observed or reported to have tormented, abused, or assaulted the dog or~~ was committing or attempting to commit a crime.

4-8-22.

(a) Except as otherwise provided by subsection (b) of this Code section, a county's jurisdiction for the enforcement of this article shall be the unincorporated area of the county and a municipality's jurisdiction for such enforcement shall be the territory within the corporate limits of the municipality.

(b) Any county or municipality or any combination of such local governments may contract or enter into agreements with each other for joint dog control services or for the provision of dog control services required by this article and for the separate or joint use of personnel, facilities, and equipment used in the provision of such services.

(c) The governing authority of each local government shall designate an individual to carry out the duties of a dog control officer as provided in this article. One individual may carry out the duties of a dog control officer for more than one local government pursuant to a contract or agreement under subsection (b) of this Code section. The governing authority of a local government may assign the additional duties of dog control officer to any officer or employee of the local government who is subject to the jurisdiction of the governing authority. With the consent of the sheriff, the governing authority of a local government may assign the additional duties of dog control officer to a county sheriff or to a sheriff's deputy. With the consent of the county board of health and the rabies control officer, the governing authority of a local government may assign the additional duties of dog control officer to a rabies control officer appointed under Code Section 31-19-7. A person carrying out the duties of a dog control officer shall not be authorized to make arrests unless the person is a law enforcement officer having the powers of arrest.

(d) The governing authority of a local government may provide by ordinance or resolution for the creation of an animal control board to hold hearings provided for in Code Section 4-8-24. If such an animal control board is created, such board may hear and determine matters provided for in Code Section 4-8-24. An animal control board may be created jointly by two or more local governments under the provisions of subsection (b) of this Code section.

(e) In lieu of conducting the hearings required by Code Section 4-8-24 or creating an animal control board for such purpose as provided in subsection (d) of this Code section, the governing authority of each local government is authorized to designate the local board of health within the jurisdiction of such local government to conduct such hearings. Any board so designated is authorized and shall have jurisdiction to conduct such hearings and determine matters provided for in Code Section 4-8-24.

4-8-23.

(a) Upon receiving a report of a dangerous dog or ~~potentially dangerous~~ vicious dog within ~~a dog control officer's jurisdiction from a law enforcement agency, animal control agency, rabies control officer, or county board of health,~~ the dog control officer shall make such investigations and inquiries with regard to such report as may be necessary to carry out the provisions of this article. Any local government shall be authorized but not required to provide by ordinance or resolution for additional duties of a dog control officer in identifying dangerous dogs or ~~potentially dangerous~~ vicious dogs and their owners to carry out the provisions of this article.

(b) Any law enforcement officer or dog control officer may take control and custody of a dog reasonably believed to be a dangerous dog or vicious dog if in the opinion of the law

enforcement officer or dog control officer the dog poses a safety threat or as authorized by county or municipal ordinance. A dog that bites a person shall be placed in quarantine for the proper length of time as determined by the county board of health. A dog so taken into custody may be impounded at the owner's expense until the conclusion of proceedings under Code Section 48-8-24.

~~(b)(c)~~ When a dog control officer classifies a dog as a dangerous or vicious dog ~~or reclassifies a potentially dangerous dog as a dangerous dog~~, the dog control officer shall notify the dog's owner in writing by certified mail or statutory overnight delivery to the owner's last known address of such classification or reclassification. Such notice shall be complete upon its mailing.

4-8-24.

~~(a) As applied to the owners of potentially dangerous dogs, the procedures provided for in this Code section must be carried out as a necessary condition for the enforcement of the provisions of this article against such owners. As applied to the owners of dangerous dogs, the procedures provided for in this Code section shall not be an essential element of any crime provided for in this article.~~

~~(b)(a)~~ When a dangerous dog or a ~~potentially dangerous~~ vicious dog is classified as such, the dog control officer shall notify the dog's owner of such classification.

~~(c)(b)~~ The notice to the owner shall meet the following requirements:

(1) The notice shall be in writing and mailed by certified mail or statutory overnight delivery to the owner's last known address;

(2) The notice shall include a summary of the dog control officer's findings that formed the basis for the dog's classification as a dangerous or ~~potentially dangerous~~ vicious dog;

(3) The notice shall be dated and shall state that the owner, within 15 days after the date shown on the notice, has a right to request a hearing on the dog control officer's determination that the dog is a dangerous dog or ~~potentially dangerous~~ vicious dog;

(4) The notice shall ~~state that the hearing, if requested, shall be before the governing authority, the board of health, or the animal control board of the respective local government and shall~~ specify the name of the applicable agency which will conduct the hearing;

(5) The notice shall state that if a hearing is not requested, the dog control officer's determination that the dog is a dangerous dog or a ~~potentially dangerous~~ vicious dog will become effective for all purposes under this article on a date specified in the notice, which shall be after the last day on which the owner has a right to request a hearing; and

(6) The notice shall include a form to request a hearing before the applicable agency and shall provide specific instructions on mailing or delivering such request to the agency.

(d)(c) When the ~~governing authority, animal control board, or local board of health,~~
~~whichever is applicable~~ agency, receives a request for a hearing as provided in subsection
 (c) (b) of this Code section, it shall schedule such hearing within 30 days after receiving
 the request. The ~~governing authority or board~~ agency shall notify the dog owner in writing
 by certified mail or statutory overnight delivery of the date, time, and place of the hearing,
 and such notice shall be mailed to the dog owner at least ten days prior to the date of the
 hearing. At the hearing, the owner of the dog shall be given the opportunity to testify and
 present evidence and in addition thereto the ~~governing authority or board~~ agency shall
 receive such other evidence and hear such other testimony as the ~~governing authority or~~
~~board~~ agency may find reasonably necessary to make a determination either to sustain,
 modify, or overrule the dog control officer's classification of the dog. Any determination
shall be by the preponderance of the evidence.

(e)(d) Within ten days after the date of the hearing, the ~~governing authority or board~~
agency shall notify the dog owner in writing by certified mail or statutory overnight
 delivery of its determination on the matter. If such determination is that the dog is a
 dangerous dog or a ~~potentially dangerous~~ vicious dog, the notice shall specify the date upon
 which that determination is effective.

4-8-25.

(a) It is unlawful for an owner to have or possess within this state a dangerous dog or
~~potentially dangerous~~ vicious dog without a certificate of registration issued in accordance
 with the provisions of this Code section. No more than one certificate of registration shall
be granted per person or owner for a dangerous dog or vicious dog. No more than one
certificate shall be issued per domicile. An owner whose dog has been determined to be
a dangerous or vicious dog shall not at any time possess the dog without compliance with
the requirement that the dog be maintained in a proper enclosure. The owner shall have
a period of 20 days after the issuance of notice under subsection (c) of Code Section 4-8-24
to present evidence of compliance with the other requirements of subsection (b) of this
Code section and obtain the certificate of registration.

(b) Subject to the additional requirements of subsection (c) of this Code section for
~~dangerous~~ vicious dogs, the dog control officer of a local government in which an owner
 possesses a dangerous dog or ~~potentially dangerous~~ vicious dog shall issue a certificate of
 registration to the owner of such dog ~~if the owner presents to the dog control officer or only~~
~~if the dog control officer otherwise finds sufficient evidence of~~ determines that:

- (1) ~~★~~ The owner has and will make use of a proper enclosure to confine the dangerous
dog or ~~potentially dangerous~~ vicious dog; and

(2)(A) ~~The posting~~ The owner of the premises where the dangerous dog or ~~potentially dangerous~~ vicious dog is located has posted the premises with a clearly visible sign warning that there is a dangerous or vicious dog on the property;

~~(B) The Department of Natural Resources shall design a uniform symbol for the purpose of implementing subparagraph (A) of this paragraph no later than July 1, 1989, and shall provide copies of the design to the governing authority of each county and municipality of this state. The sign required to be posted by subparagraph (A) of this paragraph shall conform substantially to the design provided by the Department of Natural Resources pursuant to this subparagraph.~~

~~(C) The requirement of subparagraph (A) of this paragraph shall become effective 60 days following the day the uniform design specified in subparagraph (B) of this paragraph is distributed to the governing authority of each county and municipality of the state;~~

(3) The dog is wearing a clearly visible tag identifying the dog as dangerous and containing the uniform dangerous dog symbol which shall be affixed to the dog's collar at all times;

(4) The owner has in effect, in the amount of \$100,000.00 in the case of a dangerous dog or in the amount of \$300,000.00 in the case of a vicious dog;

~~(c) In addition to the requirements of subsection (b) of this Code section, the owner of a dangerous dog shall present to the dog control officer evidence of:~~

~~(1)(A) A policy of insurance in the amount of at least \$15,000.00 issued by an insurer authorized to transact business in this state insuring the owner of the dangerous or vicious dog against liability for any personal injuries inflicted by the dangerous or vicious dog; or~~

~~(2)(B) A surety bond in the amount of \$15,000.00 or more issued by a surety company authorized to transact business in this state payable to any person or persons injured by the dangerous or vicious dog;~~

(5) The owner has provided the dog with permanent identification by having a licensed veterinarian inject a microchip containing an identification number and capable of being scanned under the skin between the shoulder blades of the dog; and

(6) The owner has provided proof of current rabies inoculation and registration.

(c) In addition to the requirements of subsection (b) of this Code section, in order to obtain the certificate of registration, the owner of a vicious dog shall present evidence that the dog has been sterilized.

(d)(1) The owner of a dangerous dog or ~~potentially dangerous~~ vicious dog shall notify the dog control officer within ~~24 hours~~ one hour if the dog is on the loose, is unconfined,

or has attacked a human; and shall notify the dog control officer within 24 hours if the dog has died, or has been sold or donated. If the dog has been sold or donated,

(2) The owner of a dangerous dog shall notify the dog control officer within 24 hours if the dog has been transferred, sold, or donated; and the owner shall also provide the dog control officer with the name, address, and telephone number of the new owner of the dog.

(3) A vicious dog shall not be transferred, sold, or donated.

(e) The owner of a dangerous dog or ~~potentially dangerous~~ vicious dog shall notify the dog control officer if the owner is moving from the dog control officer's jurisdiction. The owner of a dangerous dog or ~~potentially dangerous~~ vicious dog who is a new resident of the State of Georgia shall register the dog as required in this Code section within 30 days after becoming a resident. The owner of a dangerous dog or ~~potentially dangerous~~ vicious dog who moves from one jurisdiction to another within the State of Georgia shall register the dangerous dog or ~~potentially dangerous~~ vicious dog in the new jurisdiction within ten days after becoming a resident.

(f) Issuance of a certificate of registration or the renewal of a certificate of registration by a local government does not warrant or guarantee that the requirements specified in subsections (b) and (c) of this Code section are maintained by the owner ~~of a dangerous dog or potentially dangerous dog on a continuous basis following the date of the issuance of the initial certificate of registration or following the date of any annual renewal of such certificate.~~

(g) A dog control officer is authorized to make whatever inquiry is deemed necessary to ensure compliance with the provisions of this article. Law enforcement agencies of local governments and the sheriffs of counties shall cooperate with dog control officers in enforcing the provisions of this article.

(h) A local government may charge an annual fee, in addition to regular dog-licensing fees, to register ~~dangerous dogs and potentially dangerous dogs~~ as required in this Code section. Certificates of registration shall be renewed on an annual basis. At the time of the annual renewal of a certificate of registration, a dog control officer shall require evidence from the owner or make such investigation as may be necessary to verify that ~~the dangerous dog or potentially dangerous dog is continuing to be confined in a proper enclosure and that the owner is continuing to comply with other provisions of this article.~~

4-8-26.

(a) It is unlawful for an owner of a dangerous or vicious dog to permit the dog to be outside;

(1) Outside a proper enclosure unless the dog is muzzled and restrained by a substantial chain or leash not to exceed six feet in length and is under the physical restraint of a physically capable and responsible person adult. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but will prevent it from biting any person;

(2) Unattended in a public place;

(3) Unattended with minors; or

(4) Transported in any vehicle unless the dog is contained in a closed and locked cage or crate.

(b) No person shall own more than one dangerous or vicious dog.

(c) An owner of a dangerous or vicious dog who rents real property where the dog will reside shall disclose to the landlord prior to the rental that the person owns a dangerous or vicious dog.

(d) No person who has been convicted of a serious violent felony, as defined in Code Section 17-10-6.1, or dogfighting, as defined in Code Section 16-12-37, shall own a vicious dog.

~~(b) It is unlawful for the owner of a potentially dangerous dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a substantial chain or leash and is under the restraint of a responsible person.~~

4-8-27.

(a) A dangerous or vicious dog shall be immediately confiscated by the dog control officer or by a law enforcement officer or by another person authorized by the dog control officer in the case of any violation of this article. ~~if the:~~

~~(1) Owner of the dog does not secure the liability insurance or bond required by subsection (c) of Code Section 4-8-25;~~

~~(2) Dog is not validly registered as required by Code Section 4-8-25;~~

~~(3) Dog is not maintained in a proper enclosure; or~~

~~(4) Dog is outside a proper enclosure in violation of subsection (a) of Code Section 4-8-26.~~

~~(b) A potentially dangerous dog shall be confiscated in the same manner as a dangerous dog if the dog is:~~

~~(1) Not validly registered as required by Code Section 4-8-25;~~

~~(2) Not maintained in a proper enclosure; or~~

~~(3) Outside a proper enclosure in violation of subsection (b) of Code Section 4-8-26.~~

~~(c) Any dog that has been confiscated under the provisions of subsection (a) of this Code section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs.~~

(b) The owner of any dog that has been confiscated and subject to a violation under the provisions of subsection (a) of this Code section may recover such dog upon payment of reasonable confiscation costs and compliance with the provisions of this article. In the event the owner has not complied with the provisions of this article within 20 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.

4-8-28.

~~(a) The owner of a dangerous or vicious dog who violates the applicable provisions of Code Section 4-8-25 or Code Section 4-8-26 or whose dangerous dog is subject to confiscation under subsection (a) of Code Section 4-8-27~~ any provision of this article shall be guilty of a misdemeanor of high and aggravated nature. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$500.00 \$1,000.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$750.00 \$5,000.00 shall be imposed.

~~(b) The owner of a potentially dangerous dog who violates the applicable provisions of Code Section 4-8-25 or Code Section 4-8-26 or whose potentially dangerous dog is subject to confiscation under subsection (b) of Code Section 4-8-27 shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for a second conviction a fine of not less than \$150.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$300.00 shall be imposed.~~

~~(c)~~(b) If an owner who has a previous conviction for a violation of this article knowingly and willfully fails to comply with the provisions of this article, such owner shall be guilty of a felony if the owner's dangerous or vicious dog attacks or bites a human being under circumstances constituting another violation of this article. The owner of a dangerous or vicious dog who is convicted for a violation of this subsection shall be punished by a fine of not less than ~~\$1,000.00~~ \$2,000.00 nor more than \$5,000.00 or by imprisonment for not less than one nor more than five years or by both such fine and imprisonment.

~~(d)~~(c) An owner who knowingly and willfully fails to comply with the provisions of this article shall be guilty of a felony if the owner's dangerous or vicious dog aggressively attacks and causes severe injury or death of a human being under circumstances constituting a violation of this article. The owner of a dangerous or vicious dog who is convicted for a violation of this subsection shall be punished by a fine of not less than

\$5,000.00 nor more than \$10,000.00 or by imprisonment for not less than one nor more than ten years or by both such fine and imprisonment.

~~(e)~~(d) In addition to the penalties for violations under subsection (b) or (c) ~~or (d)~~ of this Code section, the dangerous or vicious dog involved shall be immediately confiscated by the dog control officer or by a law enforcement officer or another person authorized by the dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and, thereafter, the dangerous or vicious dog shall be destroyed in an expeditious and humane manner.

~~(f) No owner of a dangerous dog shall be held criminally liable under this article for injuries inflicted by said owner's dog to any human being while on the owner's property.~~

4-8-29.

(a) The provisions of this article are in addition to and supplementary of any previously existing laws of this state and shall not be construed to repeal or supersede such previously existing laws.

(b) It is the intention of this article to establish as state law minimum standards and requirements for the control of dangerous dogs and ~~potentially dangerous~~ vicious dogs and to provide for certain state crimes for violations of such minimum standards and requirements. However, this article shall not supersede or invalidate existing ordinances or resolutions of local governments or prohibit local governments from adopting and enforcing ordinances or resolutions which provide for more restrictive control of dogs, including a more restrictive definition of a dangerous dog or ~~potentially dangerous~~ vicious dog, than the minimum standards and requirements provided for in this article.

4-8-30.

It is the intent of the General Assembly that the owner of a dangerous dog or ~~potentially dangerous~~ vicious dog shall be solely liable for any injury to or death of a person caused by such dog. Under no circumstances shall a local government or any employee or official of a local government which enforces or fails to enforce the provisions of this article be held liable for any damages to any person who suffers an injury inflicted by a dog that has been identified as being a dangerous dog or ~~potentially dangerous~~ vicious dog or by a dog that has been reported to the proper authorities as being a dangerous dog or ~~potentially dangerous~~ vicious dog or by a dog that a local government has failed to identify as a dangerous dog or ~~potentially dangerous~~ vicious dog or by a dog which has been identified as being a dangerous dog or ~~potentially dangerous~~ vicious dog but has not been kept or restrained in the manner described in subsection (b) of Code Section 4-8-25 or by a dangerous dog or ~~potentially dangerous~~ vicious dog whose owner has not maintained

477 insurance coverage or a surety bond as required in subsection ~~(c)~~ (b) of Code Section
478 4-8-25.

479 4-8-31.

480 (a) Any dog classified prior to July 1, 2010, as a potentially dangerous dog under this
481 article as it existed prior to that date shall on and after that date be classified as a dangerous
482 dog under this article.

483 (b) Any dog classified prior to July 1, 2010, as a dangerous dog under this article as it
484 existed prior to that date shall on and after that date be classified as a vicious dog under this
485 article.

486 (c) Any dog classified prior to July 1, 2010, as a vicious dog under Article 3 of this chapter
487 as it existed prior to that date shall on and after that date be classified as a vicious dog
488 under this article.

489 ARTICLE 3

490 ~~4-8-40.~~

491 ~~This article shall be known and may be cited as the 'Mercedes' Law.'~~

492 ~~4-8-41.~~

493 ~~As used in this article, the term:~~

494 ~~(1) 'Dog control officer' means an individual selected by a local government pursuant to~~
495 ~~the provisions of subsection (c) of Code Section 4-8-22 to aid in the administration and~~
496 ~~enforcement of the provisions of Article 2 of this title.~~

497 ~~(2) 'Local government' means any county or municipality of this state.~~

498 ~~(3) 'Owner' means any natural person or any legal entity, including, but not limited to,~~
499 ~~a corporation, partnership, firm, or trust owning, possessing, harboring, keeping, or~~
500 ~~having custody or control of a vicious dog within this state.~~

501 ~~(4) 'Proper enclosure' means an enclosure for keeping a vicious dog while on the owner's~~
502 ~~property securely confined indoors or in a securely enclosed and locked pen, fence, or~~
503 ~~structure suitable to prevent the entry of young children and designed to prevent the dog~~
504 ~~from escaping. Any such pen or structure shall have secure sides and a secure top, and,~~
505 ~~if the dog is enclosed within a fence, all sides of the fence shall be of sufficient height and~~
506 ~~the bottom of the fence shall be constructed or secured in such a manner as to prevent the~~
507 ~~dog's escape either from over or from under the fence. Any such enclosure shall also~~
508 ~~provide protection from the elements for the dog.~~

~~(5) 'Severe injury' means any physical injury that results in broken bones, disfiguring lacerations requiring multiple sutures or cosmetic surgery, or a physical injury that results in death.~~

~~(6) 'Vicious dog' means any dog that inflicts a severe injury on a human being without provocation after the owner has notice that the dog has previously bitten or attacked or endangered the safety of a human being. Such term shall not include a dog that inflicts an injury upon a person when the dog is being used by a law enforcement officer to carry out the law enforcement officer's official duties. A dog shall not be a vicious dog if the injury inflicted by the dog was sustained by a person who, at the time, was committing a willful trespass or other tort or was tormenting, abusing, or assaulting the dog or had in the past been observed or reported to have tormented, abused, or assaulted the dog or was committing or attempting to commit a crime.~~

~~4-8-42.~~

~~(a) It is unlawful for an owner of a vicious dog to permit the dog to be outside a proper enclosure unless the dog is restrained by a leash and is under the physical restraint of a responsible person.~~

~~(b) A vicious dog shall be immediately confiscated by the dog control officer or by a law enforcement officer or by another person authorized by the dog control officer if the:~~

~~(1) Vicious dog is not maintained in a proper enclosure; or~~

~~(2) Vicious dog is outside a proper enclosure in violation of subsection (a) of this Code section.~~

~~(c) Any dog that has been confiscated under the provisions of subsection (b) of this Code section shall be returned to its owner upon the owner's compliance with the provisions of this article and upon the payment of reasonable confiscation costs. In the event the owner has not complied with the provisions of this article within 40 days of the date the dog was confiscated, said dog shall be destroyed in an expeditious and humane manner.~~

~~4-8-43.~~

~~(a) The owner of a vicious dog who violates Code Section 4-8-42 shall be guilty of a misdemeanor. In addition to any confinement that might be imposed for a conviction under this subsection, for the second conviction a fine of not less than \$300.00 shall be imposed and for a third or subsequent conviction a fine of not less than \$500.00 shall be imposed.~~

~~(b) If an owner who has a previous conviction for a violation of this article knowingly and willfully fails to comply with the provisions of this article, such owner shall be guilty of a misdemeanor of high and aggravated nature if the owner's vicious dog attacks, bites,~~

~~causes severe injury, or causes the death of a human being under circumstances constituting another violation of this article.~~

~~(c) In addition to the penalties for violations under subsection (b) of this Code section, the vicious dog involved shall be immediately confiscated by the dog control officer or by a law enforcement officer or another person authorized by the dog control officer and placed in quarantine for the proper length of time as determined by the county board of health, and thereafter, the vicious dog shall be destroyed in an expeditious and humane manner.~~

~~4-8-44.~~

~~(a) The provisions of this article are in addition to and supplementary of any previously existing laws of this state and shall not be construed to repeal or supersede such previously existing laws.~~

~~(b) It is the intention of this article to establish as state law minimum standards and requirements for the control of vicious dogs and to provide for certain state crimes for violations of such minimum standards and requirements. However, this article shall not supersede or invalidate existing ordinances or resolutions of local governments or prohibit local governments from adopting and enforcing ordinances or resolutions which provide for more restrictive control of dogs, including a more restrictive definition of a vicious dog, than the minimum standards and requirements provided for in this article.~~

~~4-8-45.~~

~~Under no circumstances shall a local government or any employee or official of a local government which enforces or fails to enforce the provisions of this article be held liable for any damages to any person who suffers an injury inflicted by a dog that has been identified as a vicious dog or by a dog that has been reported to the proper authorities as being a vicious dog or by a dog which has been identified as a vicious dog but has not been kept or restrained in the manner described in subsection (a) of Code Section 4-8-42."~~

SECTION 2.

This Act shall become effective on July 1, 2010, and shall apply with respect to proceedings for the classification and registration of dogs which are pending on that date as well as to such proceedings which arise on or after that date.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.